REMARKS

The final Office Action mailed July 27, 2006 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1, 3-5, 7, 8, 10-14 and 16-21 are now pending in this application. Claims 1, 3-5, 7, 8 and 10-13 stand rejected. Claims 14 and 16-21 have been withdrawn from further consideration.

The rejection of Claims 1, 3-5, 7, 8 and 10-13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Design Patent 421,162 to Roberts (hereinafter referred to as "Roberts") in view of U.S. Patent 3,098,686 to Benoit (hereinafter referred to as "Benoit") is respectfully traversed.

Roberts illustrates a dishwasher door having an outer surface including a protruding top flange and a curved bottom surface. The protruding top flange illustrated in Roberts includes a downwardly sloping front face, as shown in Figures 1, 3 and 4. Moreover, Roberts illustrates a handle surface disposed in a center of the downwardly sloping front face such that a top portion of the front face/outer surface extends between the handle and a top frame edge of the door, as shown in Figures 3 and 4. Notably, a top portion of the front face/outer surface is offset from the curved bottom surface of the door. Moreover, top and bottom sides of the handle surface extend outwardly at different distances with respect to a longitudinal axis of the door.

Benoit describes a drawer pull (16) installed in a front wall (10) of a drawer (12). The drawer pull (16) includes a main body portion (38) having an inwardly and upwardly extending back wall (40). Benoit also describes that the front wall (10) includes a recess (18) that receives the drawer pull (16) therein. The recess (18) is defined by an inwardly projecting upper flange (30), a substantially parallel inwardly projecting lower flange (32), and side flanges (34). The drawer pull (16) includes mounting clips having substantially horizontal portions (56) and (58), and substantially parallel vertically extending portions (60) and (62). Notably, the mounting clips engage the upper flange (30) and substantially parallel lower flange (32), respectively.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by

combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Roberts nor Benoit, considered alone or in combination, describes or suggests Applicants' claimed invention. Further, in contrast to the Examiner's assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Roberts and Benoit, because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicants' own teaching. Rather, only the conclusory statement that "it would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate an inwardly and upwardly extending mounting surface (40) as taught by Benoit to the mounting surface of Roberts since Robert's device would inherently utilize the same structural feature due to the similar use of the intended element, and the curved feature would permit easy hand manipulation without protruding from the panel's exterior due to the recessed configuration thereby providing a smooth and attractive appearance" suggests combining the disclosures.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck , 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It is also impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected in an attempt to arrive at the claimed invention. Since there is no teaching or suggestion in the cited art for the combination, the

Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

Benoit requires the mounting clips of the drawer pull (16) engage the upper flange (30) and substantially parallel lower flange (32) defining the recess (18) located within the front wall (10) to mount the drawer pull (16) within the drawer (12). However, Roberts does not describe or suggest substantially parallel top and bottom edges and/or flanges defining a recess.

Moreover, the flange front face of Roberts is obliquely angled downward and vertically offset from the outwardly curved bottom surface of the door. The downwardly facing flange front surface of Roberts is provided for hiding the handle surface from general view and allowing an operator to easily grasp a handle to open the door. As a result, an operator would have difficulty viewing a control panel mounted at a location where the handle surface is shown in Roberts. More specifically, an operator is generally taller than a top edge of the frame. As such, the operator must generally squat down to view the front flange surface where the handle surface is positioned. If the operator is standing in front of the door and engages the handle, the operator generally will not be able to see the handle surface. Therefore, the downwardly facing flange front face of Roberts is not a control mounting surface. As such, it would not be obvious to place a control panel in such a location that makes it difficult for an operator to view the control panel from above.

Benito describes planar top and bottom portions of the front wall (10). However, it would not have been obvious to modify the downwardly facing front surface of Roberts to include a top portion extending between a handle surface top side and a top edge of a frame, wherein, at a vertical line defined on an outer surface parallel to a door longitudinal axis, the top side extends outwardly with respect to the longitudinal axis a first distance and a mounting surface bottom side extends outwardly with respect to the longitudinal axis a second distance substantially equal to the first distance.

As set forth above, one skilled in the art would not be motivated to combine the teachings of Roberts and Benoit, as suggested by the Examiner, to arrive at Applicants' claimed invention.

Claim 1 recites an outer door panel for an appliance door assembly, the outer door panel having a longitudinal axis and comprising "a frame comprising opposite lateral sides, a top edge, and a bottom edge; an outer surface extending from said frame, said outer surface outwardly curved between said lateral sides, said outwardly curved outer surface extending from said top to said bottom edges; and a recessed control mounting surface comprising a bottom side and an opposing top side, said recessed control mounting surface extending inwardly and upwardly with respect to said longitudinal axis from said outer surface at said bottom side between said lateral sides, said top side positioned a distance from said top edge, a portion of said outer surface extending between said top side and said top edge of said frame, at a vertical line defined on said outer surface parallel to the longitudinal axis, said top side extending outwardly with respect to the longitudinal axis a first distance and said bottom side extending outwardly with respect to the longitudinal axis a second distance substantially equal to said first distance."

Neither Roberts nor Benoit, considered alone or in combination, describes or suggests an outer door panel as recited in Claim 1. More specifically, neither Roberts nor Benoit, considered alone or in combination, describes or suggests an outer door handle including an outer door panel including a portion of an outer surface extending between a mounting surface top side and a top edge of a frame, wherein, at a vertical line defined on the outer surface parallel to a door longitudinal axis, the top side extends outwardly with respect to the longitudinal axis a first distance and a mounting surface bottom side extends outwardly with respect to the longitudinal axis a second distance substantially equal to the first distance, as required by Applicants' claimed invention. Rather, in contrast to the present invention, Roberts illustrates a handle surface including top and bottom sides that extend outwardly at different distances with respect to a longitudinal axis of the door, and Benoit describes a drawer pull installed in a front wall of a drawer. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Roberts in view of Benoit.

Claims 3-5 and 7, directly or indirectly, depend from independent Claim 1. When the recitations of Claims 3-5 and 7 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 3-5 and 7 likewise are patentable over Roberts in view of Benoit.

Claim 8 recites a unitary outer door panel for a dishwasher, the outer door panel comprising "a frame portion comprising opposing lateral sides, a top edge, a bottom edge,

and a longitudinal axis; an outer surface portion extending between said opposing lateral sides and said top and bottom edges of said frame portion, said frame portion and said outer surface portion formed as a single piece, said outer surface portion outwardly curved between said lateral sides, said outwardly curved outer surface portion extending from said top to said bottom edges; and a control panel mounting surface within said frame portion and surrounded by said outer surface portion, said control panel mounting surface comprising a bottom side and a top side, said control panel mounting surface inwardly inclined with respect to said longitudinal axis, such that said control panel mounting surface is mostly shielded by said outer surface portion, a portion of said outer surface extending between said top side and said top edge of said frame, at a vertical line defined on said outer surface parallel to the longitudinal axis, said top side extending outwardly with respect to the longitudinal axis a first distance and said bottom side extending outwardly with respect to the longitudinal axis a second distance substantially equal to said first distance."

Neither Roberts nor Benoit, considered alone or in combination, describes or suggests a unitary outer door panel for a dishwasher as recited in Claim 8. More specifically, neither Roberts nor Benoit, considered alone or in combination, describes or suggests a unitary outer door panel including an outer door panel including a portion of an outer surface extending between a mounting surface top side and a top edge of a frame, wherein, at a vertical line defined on the outer surface parallel to a door longitudinal axis, the top side extends outwardly with respect to the longitudinal axis a first distance and a mounting surface bottom side extends outwardly with respect to the longitudinal axis a second distance substantially equal to the first distance, as required by Applicants' claimed invention. Rather, in contrast to the present invention, Roberts illustrates a handle surface including top and bottom sides that extend outwardly at different distances with respect to a longitudinal axis of the door, and Benoit describes a drawer pull installed in a front wall of a drawer. Accordingly, for at least the reasons set forth above, Claim 8 is submitted to be patentable over Roberts in view of Benoit.

Claims 10-13, directly or indirectly, depend from independent Claim 8. When the recitations of Claims 10-13 are considered in combination with the recitations of Claim 8, Applicants submit that dependent Claims 10-13 likewise are patentable over Roberts in view of Benoit.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 3-5, 7, 8 and 10-13 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,

Eric T. Krischke

Eric T. Krischke
Registration No. 42,769
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070